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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,267	09/15/2003	Gilbert E. Caster	84323ARLW	9030

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12/07/2004

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EXAMINER

PRONE, JASON D

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,267

Applicant(s)

CASTER, GILBERT E.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-25 and 27-31 is/are rejected.
- 7) ☒ Claim(s) 26, 32 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: On page 9 lines 24-25, the phrase "second bumper 66" should be replaced with "second bumper 68".

Appropriate correction is required.

Claim Objections

2. Claim 24 is objected to because of the following informalities: On line 3 the term "60" should be replaced with "60 degrees". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 20-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. In regards to claim 20, the phrase "wherein one of the said supports further comprises a pivotal flap" is unclear. The term "one of" indicates that it could be either of the two supports. In this case, there is only support for the side support 46 to incorporate a pivotal flap. It is unclear what structure the end or other support 48 would entail to incorporate the flap.

6. In regards to claims 21 and 23, the phrase "wherein one of the supports is inclined at an angle between 20/25 and 40/35 degrees" is unclear. The term "one of"

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indicates that it could be either of the two supports. In this case, there is only support for the side support 46 to be inclined at an angle between 20/25 and 40/35 degrees. It is unclear what structure the end or other support 48 would entail to incorporate an inclination of between 20/25 and 40/35 degrees.

7. In regards to claims 22 and 23, the phrase "wherein one of the supports is inclined at an angle between 50/55 and 70/65 degrees" is unclear. The term "one of" indicates that it could be either of the two supports. In this case, there is only support for the end support 48 to be inclined at an angle between 50/55 and 70/65 degrees. It is unclear what structure the side or other support 46 would entail to incorporate an inclination of between 50/55 and 70/65 degrees.

8. In regards to claim 24, the phrase "wherein one of the supports is inclined at an angle of about 30 degrees...the other of said supports is inclined at an angle of about 60" is unclear. The term "one of" indicates that it could be either of the two supports. See paragraphs 5 and 6 of this office action.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 15, 16, 21-25, 29, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Urban et al.

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Urban et al. discloses the same invention including a V-block defining a nest axis (7), that the V-block has a pair of supports being inclined at different angles to the nest axis (3 and line 5-9), a ram facing the supports (11), that the ram has a near position adjoining the V-block and a far position at a greater separation from the V-block than the near position (Fig. 4), that the ram is rapidly movable from the far position to the near position along the nest axis (Fig. 4), that the ram is aligned with the nest axis in the near position (Fig. 4), that one of the supports is inclined at an angle of about 30 degrees to the nest axis (3), that the other support is inclined at an angle of about 60 degrees to the nest axis (line 5-9), that the supports together define an angle of about 90 degrees (Fig. 3), a bumper laterally adjoining the supports (6), and that the side support extends farther outward from the axis than the end support (Fig. 3).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 17-20 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urban et al. in view of Kim et al. Urban et al. discloses the invention including a pivotal flap (14) but fails to disclose a sweep operatively disposed to clear the nest, that the ram and sweep are synchronized in alternation, and a plurality of passages extending through the nest with a pressurized gas supply connected to the passages. Kim et al. teaches a sweep operatively disposed to clear the nest (265), that the ram

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and sweep are synchronized in alternation (Fig. 4), and a plurality of passages extending through the nest (274) with a pressurized gas supply connected to the passages (Column 5 lines 18-21). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Urban et al. with a sweep, as taught by Kim et al., to allow the user better access to the finished product. For example, for an older person that may not be able to grasp an object from such a small indentation.

13. Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urban et al. in view of Kim et al. Urban et al. discloses the invention including a ram, defining an axis, that is movable from a far position to a near position (11), a nest closely adjoining the ram when the ram is in the near position (Fig. 4), the nest having first and second supports defining first and second intersecting planes that meet at the ram axis (Fig. 3), that the planes are inclined relative to the ram axis (Fig. 3), and that the first plane (line 5-9) is inclined relative to the next axis at about double the angle of the second plane (3) but fails to disclose a sweep operatively disposed to clear the nest and that the ram and sweep are synchronized. Kim et al. teaches a sweep operatively disposed to clear the nest (265) and that the ram and sweep are synchronized (Fig. 4). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Urban et al. with a sweep, as taught by Kim et al., to allow the user better access to the finished product.

Allowable Subject Matter

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14. Claims 26, 32, and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

15. Applicant's arguments filed 09 August 2004 have been fully considered but they are not persuasive. The entire pivotal ram (11) of the Urban et al. patent is considered the ram not just the portion that impacts one possible sized pill shown in Figure 1. This ram (11) is clearly aligned directly above the V-block (7). It is noted that all things are aligned. The nest axis is not defined in the claim, however, assuming that the nest axis is located at (5) and extending straight upwards, in Urban et al., a portion of the entire ram (11) moves, though it may be for only a split second, along the undisclosed parameter of the nest axis. Since the parameters of the nest axis are not claimed, the claim must be given its broadest interpretation. This being said, the supports are clearly inclined at different angles to the nest axis, as shown in the Figure 3. Kim et al. teaches that it is old and well known to clear out part of a work piece by clearing it with pressurized gas. Automatically clearing the work piece, of the Urban et al. patent, would assist someone who is trying to grasp a smaller work piece than the example shown in Figure 1. Therefore, the rejection is valid and will remain.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 571-272-4513. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JP

November 29, 2004



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Supervisory Patent Examiner
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